

# United States District Court

NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

JOHN FRANCIS, §  
TDCJ #2253451 §  
§  
v. § CIVIL ACTION NO. 3:20-CV-711-S-BT  
§  
§  
DIRECTOR, TDCJ-CID §

## **ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case [ECF No. 28]. No objections were filed. The District Court reviewed the proposed findings, conclusions, and recommendation as supplemented for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

The Court also **DENIES** Petitioner's Motion to Throw Out Evidence and to Be Out Right Released [ECF No. 29] and Petitioner's Motion for Discovery Evidence [ECF No. 31]. To the extent these motions request relief, they are **DENIED**. These motions appear to seek leave to amend Petitioner's Petition for Writ of Habeas Corpus by reiterating previously-asserted claims and adding further factual information about the underlying offense and recent DNA testing. They do not change the analysis contained in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge. To the extent they request relief, these motions are **DENIED**.

Moreover, considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b) and Rule 11(a) of the Rules Governing Section 2254 Proceedings in the United States District Court, and 28 U.S.C. § 2253(c), the Court **DENIES** a certificate of appealability. The Court adopts and incorporates by reference the Magistrate Judge's Findings, Conclusions and Recommendation filed in this case in support of its finding that the petitioner has failed to show

(1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

If Petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

**SO ORDERED.**

SIGNED June 18, 2021.



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UNITED STATES DISTRICT JUDGE